HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION NO. 16202 OF 1987

BETWEEN

G. Mahipal Reddy & others

.....

Petitioners

And

Government of Andhra Pradesh,
Rep. by its Secretary,
Municipal Administration & Urban
Development, Hyderabad & others

.....Respondents

::O R D E R ::

Counsel for the Petitioners : Shri V. Venkata Ramana

Counsel for Respondent Nos. 1 and 4 : Government Pleader for Municipal Administration

Counsel for Respondent Nos. 2 and 3 : Shri G. Rama Rao

Counsel for Respondent No.5 : Shri D. Govardhanachary

Counsel for Respondent Nos.6 to 170 : Smt. A. Chaya Devi

Dated: 05.09.2006

Per G.S. SINGHVI, CJ

In this petition, the petitioners have prayed for quashing

notification dated 11.09.1987 issued by Commissioner, Municipal Corporation, Hyderabad (for short, 'the Commissioner') under Section 3(2) of the Andhra Pradesh Slum Improvement (Acquisition of Land) Act, 1956 (for short 'the Act'). They have further prayed for issue of a mandamus to the official respondents not to acquire the land comprised in Survey Nos. 196/1, 196/2 and 193 measuring 9726 square yards.

Arguments in this case were heard yesterday i.e. 04.09.2006 and the case was adjourned for today because in the course of hearing, Shri G. Rama Rao, learned counsel representing Municipal Corporation, Hyderabad made a statement that during the pendency of the writ petition, the Commissioner entertained representation made by some persons claiming ownership of a portion of the land specified in notification dated 11.09.1987 and released the same from acquisition. He further stated that fresh notification dated 27.02.1992 has been issued under Section 3(1) of the Act.

Today, Shri G. Rama Rao reiterated his statement and submitted that the writ petition may be disposed of as infructuous because fresh notification under Section 3(1) of the Act has already been issued, and, in that view of the matter, the Municipal Corporation and its functionaries will not take any action in furtherance of notification dated 11.09.1987.

In the context of the statement made by Shri G. Rama Rao, we enquired from him whether fresh notification under Section 3(2) of the Act is being issued. In reply, Shri Rama Rao gave out that fresh notification could not be issued so far because action in furtherance of notification under Section 3 (1) was stayed by the High Court in Writ Petition Nos.5525 and 15846 of 1992. He pointed out that Writ Petition No.5525 of 1992 has been

dismissed in default and submitted that, as soon as the remaining petition is disposed of, the competent authority will give notice to the affected persons and issue appropriate notification under Section 3(2) of the Act after considering objections/representations, if any filed.

Learned counsel appearing for the private respondents submitted that if the Court upholds the fresh notification issued under Section 3(1) of the Act and the competent authority decides to take further action in terms of Section 3(2) of the Act, then their clients should be given opportunity of hearing. They further submitted that the petitioners should be restrained from enforcing the eviction order obtained by them.

Shri V. Venkata Ramana, learned counsel for the petitioners submitted that once the writ petition filed by his clients questioning the legality of the notification issued under Section 3 (2) of the Act is disposed of, interim order passed by the Court against execution of the orders and decrees passed by the competent court will automatically lapse and his clients shall be free to take necessary steps in that regard.

We have considered the respective submissions. In our view, the writ petition is liable to be disposed of as infructuous because after issue of fresh notification under Section 3 (1) of the Act, notification dated 11.09.1987 will be deemed to have become redundant.

Hence, the writ petition is disposed of as infructuous with the observation that after disposal of Writ Petition No.15846 of 1992, the competent authority shall be free to take action in terms of Section 3 (2) of the Act.

In order to obviate further litigation between the parties, we direct that in the proceedings which may be taken hereinafter

under Section 3 (2) of the Act, the private respondents or their representatives should also be given opportunity of hearing. We also direct that till the issue of fresh notification under Section 3 (2) of the Act, private respondents, who are occupying the land in question, shall not be evicted.

As a sequel to disposal of the writ petition as infructuous, W.P.M.P.Nos.2580 of 1987 and 2601 of 1992 filed by the petitioners for interim relief are also dismissed.

Before parting with the case, we deem it necessary to observe that on being pointed out by the Court that one of the survey numbers mentioned in notification dated 27.02.1992 is different than the one specified in notification dated 11.09.1987, Shri G. Rama Rao stated that by mistake Survey Number 196/3 has been printed in the latest notification, whereas the actual survey number is 193 and that necessary corrigendum will be issued at an early date.

G.S. SINGHVI, CJ

G.V. SEETHAPATHY, J

05.09.2006
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